



LAW OFFICES
LOS ANGELES COUNTY PUBLIC DEFENDER

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MICHAEL P. JUDGE
PUBLIC DEFENDER

TO: ALL STAFF

FROM: MICHAEL P. JUDGE
PUBLIC DEFENDER
EXECUTIVE OFFICE *MPJ*

DATE: SEPTEMBER 10, 2003

RE: MINUTES - EXPANDED STAFF MEETING

The Expanded Staff Meeting for the Law Offices Los Angeles County Public Defender was held on August 14, 2003. The following are members:

MICHAEL P. JUDGE	JANET YARBROUGH	TERRI TOWERY
ROBERT E. KALUNIAN	BOB HALL	PAULA MONTEZ
LON SARNOFF	BILL SAUL	GENEVA PHILLIPS
MEL TENNENBAUM	DOUG LOVE	BARBARA METCALF
DAROLYN JENSEN	RON YORIZANE	LESLIE STEARNS
ELAINE PALIOLOGOS	BOBBY GIL	AL MENASTER
ALLEN ADASHEK	JOHN GONZALES	VERAH BRADFORD
RONALD BROWN	BERNICE HERNANDEZ	RAMON QUINTANA
RUDY ROUSSEAU	MARK LESSEM	CAROL CLEM
BILL WEISS	STEVE FISHER	CAROL WHYTE
JOHN MARTINEZ	KAREN THOMPSON	
RON WHITE	LORRAINE WELCH	
LAURA GREEN	DENNIS YAMAMOTO	
KELLY EMLING	MARVIN ISSACSON	
LITA JACOSTE	MIKE DEMBY	
PAT DE LA GUERRA	MIKE CONCHA	
DIANE PARRIS	CHARLIE KLUM	
STEVE HOBSON	STAN SHIMOTSU	
MARILYN TURNER	WINSTON PETERS	
ALAN ABAJIAN	GABE ZARAGOZA	
STU GLOVIN	JOHN BROCK	
JOHN VACCA	CHERYL JONES	
CORRINE CORTINAS	MARK WINDHAM	
JOAN CROKER	PATRICIA AGUILAR	

EXPANDED STAFF MEETING AUGUST 14, 2003

I. ANNOUNCEMENTS

CHILDHOOD SOCIAL/BEHAVIOR DISORDER INFORMATIONAL MEETING ROBERT KALUNIAN

Robert Kalunian indicated we should probably remind all staff of the informational meeting for parents of children with social/behavioral disorders and non-verbal disabilities. Michael P. Judge sent a memo out last month announcing the meeting is scheduled for Wednesday, August 27, 2003 at 5:30 p.m. at the Regional Planning Hearing Room (Room 150 Hall of Records), 320 West Temple Street, Los Angeles, CA 90012. Dr. Cyrus Rangan, Los Angeles County Health Department, Director of Toxic Epidemiology and Dr. Constantine Gean, Consulting Medical Director, CAO of Occupational Health Programs, will provide relevant information and answer questions. Copies of Mr. Judge's original memo were distributed. It would be a good idea to remind everyone that this meeting is open to all our staff members as well as APD and District Attorney staff members. A PDQ article regarding the subject was also published this month.

Mr. Judge indicated this seminar is in response to the fact that a number of staff members at his branch site visits expressed concerns about the health of children of public defender employees as well as due to his independent concern. Undoubtedly, there are employees who would find this meeting beneficial. It will give them an opportunity to directly ask some questions regarding issues that are of importance to their specific situations.

A. CENTURY CITY BAR ASSOCIATION CRIMINAL AWARDS BANQUET MICHAEL P. JUDGE

Mr. Judge stated the Century City Bar Association is having their 12th Annual Criminal Law Awards of Excellence Banquet, co-chaired by Derek A. Danielson and Fay Arfa on Wednesday September 10, 2003 at 6:00 p.m. at The Beverly Hills Meridian Hotel, 465 South La Cienega Boulevard, Los Angeles, CA 90048. Among the honorees: Johnnie L. Cochran, Jr. and Robert Blake's lawyer, Thomas A. Mesereau, Jr. Moreover our colleague Verah Bradford will be receiving an award for Public Defender of the year.. Information regarding the event was distributed to members of the Expanded Executive staff in attendance. Mr. Judge indicated he would be most appreciative if everyone would take the information and post it at their offices. Mr. Judge thinks it is important that we come

out in force and support Ms. Bradford to demonstrate how we stick together and also how much we appreciate the fact that they are recognizing Ms. Bradford.

Mr. Judge also reminded everyone about NAPBA's 15th Annual National Association Bar Conference on November 12 through 16 and indicated there is still time to join.

**DEATH PENALTY COLLEGE
JOHN BROCK**

John Brock discussed the Department's Death Penalty College which will take place Friday, October 17 and Saturday, October 18 at the Millennium Biltmore Hotel.

Information regarding the balance of the Death Penalty Manual supplement was passed out and Mr. Brock indicated anyone who didn't receive three disks will be receiving them in the mail in the near future as there have been delivery problems. When the disks are received, be sure they are labeled One of Three, Two of Three and Three of Three. If not, Mr. Brock should be contacted.

**DEPARTMENT OF HUMAN RESOURCES FAMILY NEWSLETTER
RON WHITE**

Ron White spoke regarding The Family Newsletter which is put out by the Department of Human Resources for July and August which contains information for family and children. Mr. White asked that each member take a copy of the July and August newsletters and post for staff to see at their respective branches.

**II. ALFORD CASE PROTOCOLS
LON SARNOFF**

Mr. Sarnoff distributed three separate protocols: (1) Pitchess Protocol for lawyers, (2) Pitchess Protocol for Investigators and (3) IDIN (Inter-departmental Integrity Notification). These three protocols were drafted by the Department in response to Alford opinion by the California Supreme Court. That opinion clarified some of the issues that

have an impact on how we retain and disseminate Pitchess information. Mr. Sarnoff discussed the contents of the protocols. These protocols are the product of the efforts of a committee of several managers and several trial attorneys and then many sessions of the Monday Executive staff, editing and fine tuning the language. Then the protocols were disseminated amongst the different PD Affinity Associations for their input and slight modifications. It is important that all trial staff is familiar with the contents of the protocols. It is important that our investigators also be familiar.

Mr. Kalunian requested managers to distribute the protocols to trial staff; attorneys, paralegals and investigators. It is very important that they be distributed because basically they govern how we must do business after the Alford case. The protocols determine how we are going to honor the protective orders, how we are going to preserve what we may maintain, and under which circumstances we may reuse interviews that we have already conducted and documented rather than harassing them by going out again reinterviewing witnesses. It's basically how we institutionally will comply with Alford relating to Pitchess Protective Orders and interviewing witnesses.

III. LASD EARLY RELEASE PROGRAMS JOHN VACCA

A letter was written to Judge Wesley by the Commander of Correctional Facilities under Sheriff Baca's name indicating what Early Release Programs the Sheriff is implementing. It is important that our lawyers be aware of the various alternatives of the Sheriff's Department in releasing a person on what they call a Citation Release, Early Release or Work Program (no longer called Work Furlough). Mr. Vacca distributed a copy of the letter from the Sheriff in addition to a copy of all the various programs that the Sheriff's Department uses for releasing.

Mr. Vacca asked that the Head Deputies take a copy and make copies for the attorneys at their branch so that they can have this information available to them. Mr. Vacca has heard from some of our lawyers that in spite of the Sheriff's parameters for releasing people, one of which is the bail is \$25,000 or less, some of our clients are not being released in accordance with the Sheriff's policy. That apparently is because the

Sheriff has a lack of personnel and are unable to screen them as they should. In the case that Deputy Public Defender David Hizami found, all he had to do was to call a Sergeant indicating he was the attorney that was representing the client and the bail was a certain level and the Sheriff was able to immediately verify that the man qualified for the parameters for Citation Release and was released within hours. How many other people are being held as a result of the Sheriff's inability to screen, we have no way of knowing.

Once again, it's incumbent on our attorneys to follow through when they have reason to believe that one of our clients possibly could be released to one of these programs. They should verify that the person in fact has been released and if not, urge forthwith compliance. There was an e-mail on the PDNet identifying the person to whom Mr. Hizami spoke, but for those who didn't get the information it is Deputy Reed at (213)893-5758, or in the alternative ask for the Watch Commander.

John Vacca indicated he is receiving sporadic complaints that our staff members using the Central Jail attorney room are having problems either because the attorney room is crowded with parolees or inmates that are waiting to speak to law enforcement officers are sitting unattended at the next stool. While we are speaking to our clients if others are sitting next to us waiting to be spoken to, they having nothing better to do than listen to our confidential conversations. This of course is not acceptable. Mr. Vacca believes we had solved that problem. If it is still occurring, please notify Mr. Vacca.

If you are not being allowed to use enclosed booths or order at least three clients at a time for visits, please notify Mr. Vacca. Based on recent bilateral agreements by the Sheriff's Department we should now be able to order at least three people at a time in the attorney room so our lawyers don't have to sit there for forty-five minutes to an hour in between clients. If that is not occurring, Mr. Vacca would like to know that as well.

IV. STOGNER CASES LON SARNOFF

Mr. Sarnoff distributed computer lists to each Head Deputy containing the Stogner cases which originated in their branch courts. The data was derived from three computer runs performed by the District Attorney. In the first run all cases which contained a Penal Code section 803(g) allegation were identified. This run, however, was incomplete for it did not include any cases in which an individual filing DDA had composed the pleading without using the preprogrammed language within PIMS. Therefore, the DA agreed to create two additional listings. The second run identified cases in which the offense date for any count was before January 1, 1987, and the complaint date was after January 1, 1990. The third run identified cases in which the offense date for any count was before January 1, 1991, and the complaint date was after January 1, 1994. These three runs identified a total of 754 cases to be examined for Stogner impact. Of those 754, 383 were PD cases, and 9 were APD cases.

The remaining 362 had been private counsel cases (either retained or appointed). The Court has determined to assign private counsel cases to the Post Conviction Assistance Center, directed by Gigi Gordon. (We recently received a fourth run which identified an additional 40 cases. They were not included in the distributed list, and so a supplemental list will be distributed later).

We were aware that the second and third computer runs could include cases which present no Stogner problem because the pertinent statute of limitations was six years as opposed to three years. But the computer program prepared by Mr. Sarnoff analyzed the counts by charge and eliminated those which were improperly identified.

There is a difference of opinion about the meaning of Stogner. The DA's position is that prosecutions do not become time-barred if the traditional statute of limitations did not expire until after the enactment of section 803(g). The PD's position is that section 803(g) is a revival statute, not an extension statute, and that the enactment date is of no consequence. This difference of interpretation will have to be resolved through litigation. There are already several cases "in the pipeline" dealing with this issue.

Mr. Sarnoff explained the significance of the various columns in the tabulation, most of which were self evident. The two columns which required some explanation are entitled DA and PD. "YES" under the DA column heading means that the count should be dismissed under the DA's interpretation of Stogner. "YES" under the PD columns heading means that the count should be dismissed under the PD's interpretation of Stogner. Mr. Sarnoff distributed a list of cases in which all counts were determined to be time-barred both under the DA and the PD interpretations. These "slam dunk" cases should be given priority in handling expeditiously to obtain the clients' release as compelled under Stogner.

Mr. Sarnoff also distributed a court approved order to be used by any court granting Stogner relief. The order sets aside the conviction, and dismisses the case. It also provides relief to the defendant by eliminating registration requirements, and orders the authorities to strike/destroy any existing registration information, DNA and fingerprint information obtained as a result of the dismissed case. It also orders refund of any fines or probation fees paid by the defendant.

The California Department of Corrections has agreed to release the inmate based upon a FAXed order. But they insist upon the identifying information in the caption of the order: CDC number, CII number, and date of birth.

Head Deputies are expected to monitor the progress of the trial staff in addressing the cases. Cases should be assigned to the original trial attorney, if still with our office. If not, then special assignments should be made by the Head Deputy. Uncontested (i.e., slam dunk cases) from the CSFCJC will be heard by Judge David Wesley. Other cases will be assigned to the original trial judge, if available.

Appellate has prepared template motions to assist the trial staff in handling these cases. They have been posted on the PDWEB. If anyone needs assistance, please call Mark Harvis in our Appellate Branch.

**V. LIBRARY
MIKE DEMBY**

Mr. Demby indicated that he has just become aware that we may be receiving books which we did not order and yearly supplements to books we do not have. Apparently, publishers have started sending out books in the hopes we will keep them. The publisher for the California Reports is sending out free trial issues for three months. After that, we have to cancel the account or else we will be charged. Wendy Edmisten of our Fiscal Services is resolving the California Reports issue.

Some of our staff have personal subscriptions which are sent to the office. It would be appreciated if they could either be sent to their home or post office box, so we don't confuse those with the ones we don't want. All managers were requested to check what publications are being received at their branch and any questions can be directed to Mr. Demby or Ms. Edmisten.

The next Expanded Staff meeting will be held September 11, 2003 at 2:00 p.m. in the Public Defender's Library of the Clara Shortridge Foltz Criminal Justice Center.